

STATEMENT  
OF  
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COMMISSIONER  
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DEPARTMENT OF JUSTICE

FOR

A HEARING ON  
CRIMINALS ALIENS AND BORDER PATROL FUNDING,

BEFORE THE  
HOUSE JUDICIARY COMMITTEE  
SUBCOMMITTEE ON IMMIGRATION AND CLAIMS

THURSDAY, FEBRUARY 25, 1999  
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STATEMENT OF INS COMMISSIONER DORIS MEISSNER  
February 25, 1999

Mr. Chairman, Congresswoman Jackson-Lee, and Members of the Subcommittee, I am pleased to have the opportunity to talk to you about the Immigration and Naturalization Service's (INS) policy regarding the detention of criminal aliens and the Administration's request for additional resources for the United States Border Patrol in FY2000. Since this is my first opportunity to appear before the Subcommittee in the 106th Congress, I want to express my sincere hopes for a constructive Congress -- working again with Chairman Smith, with our new Ranking Minority Member, and new and returning Members of the Subcommittee. I intend to always be available to you, and look forward to working with you on the many immigration issues of concern to us all.

Before I provide a more detailed report on the subject of today's hearing, let me summarize the major points. First, with respect to criminal aliens in detention, I want to be very clear -- we have contacted our 3 regions, who have contacted our 35 districts, each of whom report that no aliens have been released who are subject to mandatory detention. INS will continue to detain and remove from the U.S., criminal aliens subject to the mandatory detention requirements of the 1996 immigration law. Indeed, the number of criminal aliens we remove has nearly doubled from 28,600 in FY1993 to 56,100 in FY 1998. Despite significant growth in detention space and greater efficiency in removing aliens, INS nevertheless is detaining more people today than current funding allocations will support. INS, working with the Department,

will aggressively address this matter.

Second, with respect to Border Patrol funding, the Administration's commitment to effective border enforcement remains unwavering. With Congressional support, INS doubled the size of the Border Patrol to 8,000 agents since FY 1993, and plans to add another 1,000 this year.

The Administration's FY 2000 budget continues support for Border enforcement investing heavily in force-multiplying technology to increase the effectiveness and enhance the safety of our agents. The budget also requests \$48 million in construction funding to border infrastructure and facilities to house the sharp increase in agents over the past few years.

#### Criminal Aliens in Detention

I want to again reiterate that INS has not directed any of our offices to release any aliens subject to mandatory detention under section 303 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), and does not intend to direct them to do so. Over the past few years, INS, pursuant to Congressional direction and funding, has rapidly expanded the number of detention beds used to detain removable aliens. While about 5,500 aliens were in detention in FY 1994, about 16,400 are detained today. The percentage of detainees with criminal records has also increased substantially during this period, from 60 percent in 1994 to more than 90 percent today. Most of these increases were accomplished under INS Transition Period Custody Rules (TPCR), structured regulations which mandated detention in many circumstances and outlined the factors to be considered in weighing release in other

circumstances.

As you know, the TPCR ceased to be effective on October 8, 1998, when the mandatory detention provisions of IIRIRA took effect. Mandatory detention requires the custody of a broader class of aliens than the TPCR, and does not permit any consideration of release in those cases. Soon after the TPCR expired, INS received from Congress its FY 1999 appropriation, which, due to increased detention costs, funded only 14,250 beds, nearly 500 less than the average daily population in FY 1998. This appropriation was \$56 million less than the Administration's FY 1999 request for detention. At about the same time, INS stayed the removal of nationals of the four Central American nations devastated by Hurricane Mitch. Many criminal aliens from these nations who would otherwise have been returned have instead remained in INS custody. While these stays were lifted for criminal aliens in early January, this prevented the turnover of existing bed space, and thus further reduced the number of new detainees that could be accommodated.

As a result of these factors, and despite the fact that INS removes an average of 4,600 criminal aliens per month, the number of aliens currently in INS custody exceeds the funded bed space level for FY 1999. The Department of Justice and INS are working aggressively to alleviate this situation, and are exploring all administrative, legislative and funding options in an effort to fulfill INS' statutory responsibilities. On February 16, 1999, as part of the Administration's comprehensive response to Hurricane Mitch, INS requested an additional \$80 million for detention bed space to mitigate the effects of migration relating to the devastation in

Central America. The request will ensure that all Central American criminal aliens, and others subject to mandatory detention, are detained and removal and none are released from detention. It will also ensure a credible border deterrent is in place to send the message that the U.S. border is not open to illegal border crossers, while recognizing that the U.S. does not want to overwhelm the Central American countries by returning too many people too fast. In addition, the Justice Department and INS are working on a request to the Congress seeking permission to reprogram existing INS and DOJ funds and to ensure that INS will continue to detain every alien subject to mandatory detention, as well as thousands of others subject to discretionary detention, throughout this fiscal year.

Among the administrative steps being taken is increasing the effectiveness of the Institutional Removal Program (IRP) which identifies criminal aliens incarcerated in federal, state and local facilities. In the first quarter of FY 1999, IRP removals totaled 4,250, a 30 percent improvement over the same period last year and 30 percent of total criminal removals. INS has worked to eliminate the backlog of unidentified criminal aliens in most of the major states with IRP programs, and is finalizing IRP improvement plans in each state. Even successful IRP cases, however, often require INS detention until departure arrangements are completed.

Approximately 1,100 of the 3,500 long-term criminal detainees held by INS began as IRP cases, but INS has been unable to return these individuals because of difficulties in obtaining travel documents from foreign governments to allow for their return. We are working with the Department of State to address this issue. INS' local jail programs successfully identify thousands of criminal aliens, but due to the brief sentences actually served they must be taken into INS

custody after finishing their criminal sentences for completion of removal proceedings.

Additional tools used to maximize the efficiency of the IRP program includes full use of administrative removal and reinstatement of final orders of removal. As a result, there is an expectation that the average length of detention will decrease, which will give INS the capacity to detain more criminal aliens.

In addition, we are upgrading the management of INS' detention program. We are seeking a senior level official with the best professional credentials, to consolidate management of INS' entire detention program, including facilities, detention standards and policies, transportation of aliens, and management of detention space.

The Department and INS place the highest value on protecting public safety. I assure you that we will consult with the Subcommittee further regarding our plans regarding mandatory detainees, as well as our views concerning potential legislative changes to provide the Attorney General with the necessary flexibility to determine the appropriate level of detention needed to ensure that our detention resources are used in the most effective manner possible.

#### Border Patrol Funding

The President's FY 2000 budget maintains Border Patrol staffing at the FY 1999 level of nearly 9,000 agents, which represents a 122 percent increase and nearly 5,000 agent over the FY 1993 level of 3,965 agents. INS has worked extremely hard over the last few years to meet its hiring goals for the Border Patrol. In the last two years (FY 1997-98), in which Congress added

funding for 2,000 agents, INS agent strength actually increased by 2,040 agents. The extent of this accomplishment is further demonstrated by the fact that, in order to reach this level of new agents, INS had to hire and train more than 3,600 agents due to the significant attrition rate for those positions. A strong employment market has challenged INS' recruitment results during the current fiscal year, leading INS to develop an aggressive plan targeting a variety of employment markets. Currently, nearly 40 percent of our Border Patrol agents have less than two years of experience. With a year of consolidation, INS will be able to ensure that we continue to safeguard the highest standards of law enforcement professionalism for this new workforce.

Concurrent with the period of Border Patrol growth, increasingly effective force-multiplying technology has been deployed. The FY 2000 budget continues our commitment to improving technology in support of our border strategy and includes a request of \$50 million to fund the installation of approximately 200 Integrated Surveillance Intelligence System (ISIS) locations. This field-tested technology consists, in part, of poles to which daytime and night visual cameras are attached. The camera sites are linked to centrally located command centers equipped with video monitors allowing for a single person to monitor a vast area of terrain. The ISIS system also includes ground sensors. By linking these technologies, when a ground sensor is triggered, a signal is sent, the designated camera receives the signal, and the camera then trains on the triggered ground sensor. At the centrally located video monitoring site, the person monitoring the video screens is alerted to which sensor/camera system has been triggered, and can immediately view the site. This technology significantly enhances the Border Patrol's ability to maximize effectiveness and officer safety, since the camera may reveal anything from armed drug smugglers requiring immediate dispatch of a team of agents to wild animals requiring no

response at all. It will also serve as a deterrent and enforcement presence while the Border Patrol more effectively deploys and builds the experience base of the agents it has hired and trained over the past several years.

In addition to ISIS enhancements, the FY 2000 budget also includes \$48 million to expand and build more than 20 Border Patrol sector headquarters, stations and checkpoints on the Southwest border, including 17 in Texas and California and border infrastructure. Current facilities are inadequate to meet the need of the rapid expansion of the Border Patrol. Funding for border infrastructure will permit the expansion of border barriers, lighting, and roads along the South West border.

### Conclusion

INS, with the help of Congress, has made great strides in the effective enforcement of our immigration laws, especially regarding border enforcement and the removal of criminal aliens. I stand ready to continue to work with you to further our success in meeting immigration challenges, and remain confident we will do so.